

**Executive Summary – Enforcement Matter – Case No. 51837**

**Aqua Utilities, Inc.**

**RN101232676**

**Docket No. 2016-0179-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Centennial Place, 4831 Lewis Lane near Pearland, Brazoria County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 10, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$684

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$684

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 4, 2016

**Date(s) of NOE(s):** January 28, 2016

**Executive Summary – Enforcement Matter – Case No. 51837**  
**Aqua Utilities, Inc.**  
**RN101232676**  
**Docket No. 2016-0179-PWS-E**

***Violation Information***

1. Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1 [30 TEX. ADMIN. CODE § 290.41(c)(1)(F)].
2. Failed to provide a thorough and up-to-date plant operations manual for operator review and reference [30 TEX. ADMIN. CODE § 290.42(l)].
3. Failed to calibrate the Facility's well meter at least once every three years [30 TEX. ADMIN. CODE § 290.46(s)(1)].
4. Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies [30 TEX. ADMIN. CODE § 290.46(n)(2)].
5. Failed to provide a pressure tank capacity of 50 gallons per connection [30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, calibrate the Facility's well meter.
- b. Within 45 days, submit written certification to demonstrate compliance with a.
- c. Within 60 days:
  - i. Develop and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference; and
  - ii. Provide an up-to-date map of the distribution system that includes the locations of all mains and valves.
- d. Within 75 days, submit written certification to demonstrate compliance with c.
- e. Within 90 days, either obtain a sanitary control easement that covers all land within 150 feet of Well No. 1 or obtain an exception to the requirement.
- f. Within 105 days, submit written certification to demonstrate compliance with e.

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**Docket No. 2016-0179-PWS-E**

g. Within 180 days, provide a minimum pressure tank capacity of 50 gallons per connection.

h. Within 195 days, submit written certification to demonstrate compliance with g.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Ryan Byer, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2571; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** N/A

**Respondent:** Robert Laughman, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723

**Respondent's Attorney:** N/A





## Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	1-Feb-2016	Screening	3-Feb-2016	EPA Due	
	PCW	3-Feb-2016				

## RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc.		
Reg. Ent. Ref. No.	RN101232676		
Facility/Site Region	12-Houston	Major/Minor Source	Major

## CASE INFORMATION

Enf./Case ID No.	51837	No. of Violations	5
Docket No.	2016-0179-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ryan Byer
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$590</b>
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>10.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$59</b>
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Notes	Enhancement for two NOV's with the same/similar violations.
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<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$731
Estimated Cost of Compliance	\$5,331

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$649</b>
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## OTHER FACTORS AS JUSTICE MAY REQUIRE

5.4%

Adjustment \$35

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided costs of compliance associated with Violation No. 3.
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<b>Final Penalty Amount</b>	<b>\$684</b>
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## STATUTORY LIMIT ADJUSTMENT

<b>Final Assessed Penalty</b>	<b>\$684</b>
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## DEFERRAL

0.0%

Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	No deferral is recommended for Findings Orders.
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## PAYABLE PENALTY

<b>\$684</b>
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Screening Date 3-Feb-2016

Docket No. 2016-0179-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for two NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 10%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 10%

Screening Date 3-Feb-2016

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PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(1)(F)

Violation Description

Failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to have a sanitary control easement in place could allow activities to occur next to the well which could allow contamination of the well, exposing persons served by the Facility to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$930

\$70

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$70

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$70

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$81

This violation Final Assessed Penalty (adjusted for limits) \$81

# Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.  
Case ID No. 51837  
Reg. Ent. Reference No. RN101232676  
Media Public Water Supply  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$20	11-Mar-2015	12-Nov-2016	1.68	\$2	n/a	\$2

Notes for DELAYED costs

The delayed cost includes the estimated amount to obtain and record a sanitary control easement for the well, calculated from the date the violation was initially documented to the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20

TOTAL

\$2



Screening Date 3-Feb-2016

Docket No. 2016-0179-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.42(l)

Violation Description

Failed to provide a thorough and up-to-date plant operations manual for operator review and reference.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix  
Notes

100% of the rule requirement was not met.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$174

This violation Final Assessed Penalty (adjusted for limits) \$174

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 51837  
**Reg. Ent. Reference No.** RN101232676  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	11-Mar-2015	13-Sep-2016	1.51	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to compile and begin maintaining a plant operations manual, calculated from the date the violation was initially documented to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$8

Screening Date 3-Feb-2016

Docket No. 2016-0179-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.46(s)(1)

Violation Description

Failed to calibrate the Facility's well meter at least once every three years.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to calibrate the Facility's well meter could result in the operator obtaining inaccurate well production data, resulting in persons served by the Facility being exposed to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$930

\$70

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$70

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$70

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$35

Violation Final Penalty Total \$81

This violation Final Assessed Penalty (adjusted for limits) \$81

# Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.

**Case ID No.** 51837

**Reg. Ent. Reference No.** RN101232676

**Media** Public Water Supply

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$31	13-Mar-2014	3-Feb-2016	2.81	\$4	\$31	\$35
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to properly calibrate the well meter at least once every three years, calculated from the date the Respondent obtained ownership of the Facility to the screening date.

Approx. Cost of Compliance \$31

**TOTAL** \$35

Screening Date 3-Feb-2016

Docket No. 2016-0179-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.46(n)(2)

Violation Description

Failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$14

Violation Final Penalty Total \$174

This violation Final Assessed Penalty (adjusted for limits) \$174

# Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 51837  
**Reg. Ent. Reference No.** RN101232676  
**Media** Public Water Supply  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$180	11-Mar-2015	13-Sep-2016	1.51	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop an accurate and up-to-date map of the distribution system, calculated from the date the violation was initially documented to the estimated date of compliance

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$14

Screening Date 3-Feb-2016

Docket No. 2016-0179-PWS-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 4 (April 2014)

Case ID No. 51837

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101232676

Media [Statute] Public Water Supply

Enf. Coordinator Ryan Byer

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 290.45(b)(1)(A)(ii) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to provide a pressure tank capacity of 50 gallons per connection. Specifically, the Facility has 32 connections and is required to provide a minimum pressure tank capacity of 1,600 gallons. However, only 900 gallons were provided which is a 44% deficiency.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to provide adequate pressure tank capacity could result in exposing persons served by the Facility to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$850

\$150

## Violation Events

Number of Violation Events 1

30

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$150

One quarterly event is recommended, calculated from the date of the record review, January 4, 2016, to the date of screening, February 3, 2016.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$673

Violation Final Penalty Total \$174

This violation Final Assessed Penalty (adjusted for limits) \$174

## Economic Benefit Worksheet

**Respondent** Aqua Utilities, Inc.  
**Case ID No.** 51837  
**Reg. Ent. Reference No.** RN101232676  
**Media** Public Water Supply  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	11-Mar-2015	10-Feb-2017	1.92	\$32	\$641	\$673
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a pressure tank capacity of 50 gallons per connection, calculated from the date the violation was initially documented to the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$673





# Compliance History Report

**PUBLISHED** Compliance History Report for CN602787509, RN101232676, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

**Customer, Respondent, or Owner/Operator:** CN602787509, Aqua Utilities, Inc.

**Classification:** SATISFACTORY

**Rating:** 5.94

**Regulated Entity:** RN101232676, CENTENNIAL PLACE

**Classification:** NOT APPLICABLE

**Rating:** N/A

**Complexity Points:** N/A

**Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 4831 LEWIS LANE NEAR PEARLAND, BRAZORIA COUNTY, TEXAS

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0200190

**Compliance History Period:** September 01, 2010 to August 31, 2015

**Rating Year:** 2015

**Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** February 02, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 02, 2011 to February 02, 2016

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Ryan Byer

**Phone:** (512) 239-2571

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) If **YES** for #2, who is the current owner/operator? Aqua Utilities, Inc. OWNER since 3/13/2014
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? Texas-American Water Company, OWNER, 6/3/2008 to 3/12/2014
- 5) If **YES**, when did the change(s) in owner or operator occur? 3/13/2014

## Components (Multimedia) for the Site Are Listed in Sections A - J

### **A. Final Orders, court judgments, and consent decrees:**

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 04/09/2015 (1223412)

CN602787509

Self Report? NO

Classification: Moderate

Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)		
Description:	Failure to make available sanitary control easements for well #1 at the time of investigation, or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to compile and maintain, a current, and thorough plant operations manual for operator review and reference.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.43(d)(3)		
Description:	Failure to equip the pressure tank with a capacity greater than 1000 gallons with some sanitary means of determining the air to water ratio.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)(1)		
Description:	Failure by the regulated entity to calibrate the well meter required by 30 TAC 290.41(c)(3)(N) according to the manufacturer's specifications at least once every three years.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)		
Description:	Failure to provide minimum pressure tank capacity of 50 gallons per connection.		

  

2	Date:	09/18/2015	(1280285)	CN602787509
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)		
	Description:	Failure to provide minimum pressure tank capacity of 50 gallons per connection.		

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

## Component Appendices

### Appendix A

#### All NOVs Issued During Component Period 2/2/2011 and 2/2/2016

- 1      Date:      02/29/2012      (980582)      CN602787509  
Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)  
Description:   Failure to provide minimum well capacity of 1.5 gallons per minute per connection.
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
Description:   Failure to provide a minimum pressure tank capacity of 50 gallons per connection.
- 2      Date:      09/15/2012      (1030336)      CN602787509  
Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(i)  
Description:   Failure to provide minimum well capacity of 1.5 gallons per minute per connection.
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
Description:   Failure to provide a minimum pressure tank capacity of 50 gallons per connection.
- 3\*      Date:      04/09/2015      (1223412)      CN602787509  
Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)  
Description:   Failure to make available sanitary control easements for well #1 at the time of investigation, or executive director approval for a substitute authorized in §290.41(c)(1)(F)(iv).
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.42(l)  
Description:   Failure to compile and maintain, a current, and thorough plant operations manual for operator review and reference.
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.43(d)(3)  
Description:   Failure to equip the pressure tank with a capacity greater than 1000 gallons with some sanitary means of determining the air to water ratio.
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
Description:   Failure by the regulated entity to calibrate the well meter required by 30 TAC 290.41(c)(3)(N) according to the manufacturer's specifications at least once every three years.
- Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
Description:   Failure to prepare and maintain a map of the distribution system so that valves and mains may be easily located during emergencies.
- Self Report?   NO      Classification:   Minor  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
Description:   Failure to provide minimum pressure tank capacity of 50 gallons per connection.
- 4      Date:      09/18/2015      (1280285)      CN602787509  
Self Report?   NO      Classification:   Moderate  
Citation:      30 TAC Chapter 290, SubChapter D 290.45(b)(1)(A)(ii)  
Description:   Failure to provide minimum pressure tank capacity of 50 gallons per connection.

\* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

## Appendix B

### All Investigations Conducted During Component Period February 02, 2011 and February 02, 2016

Item 1	March 02, 2012**	(980582)
Item 2	September 14, 2012**	(1030336)
Item 3	October 07, 2013**	(1076837)
Item 4	July 08, 2014**	(1178349)
Item 5	April 02, 2015**	(1223412)
Item 6	September 23, 2015	(1280285)
Item 7	January 27, 2016	(1301401)

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AQUA UTILITIES, INC.  
RN101232676**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2016-0179-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located at 4831 Lewis Lane near Pearland, Brazoria County, Texas (the "Facility") that has approximately 32 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on January 4, 2016, TCEQ staff documented that the Respondent did not obtain a sanitary control easement covering land within 150 feet of Well No. 1.
3. During a record review conducted on January 4, 2016, TCEQ staff documented that the Respondent did not to provide a thorough and up-to-date plant operations manual for operator review and reference.
4. During a record review conducted on January 4, 2016, TCEQ staff documented that the Respondent did not calibrate the Facility's well meter at least once every three years.
5. During a record review conducted on January 4, 2016, TCEQ staff documented that the Respondent did not provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies.
6. During a record review conducted on January 4, 2016, TCEQ staff documented that the Respondent did not provide a pressure tank capacity of 50 gallons per connection. Specifically, the Facility has 32 connections and is required to provide a minimum pressure tank capacity of 1,600 gallons. However, only 900 gallons were provided which is a 44% deficiency.
7. The Respondent received notice of the violations on February 1, 2016.

## **II. CONCLUSIONS OF LAW**

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to obtain a sanitary control easement covering land within 150 feet of Well No. 1, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(F).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to provide a thorough and up-to-date plant operations manual for operator review and reference, in violation of 30 TEX. ADMIN. CODE § 290.42(l).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to calibrate the Facility's well meter at least once every three years, in violation of 30 TEX. ADMIN. CODE § 290.46(s)(1).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide an accurate and up-to-date map of the distribution system so that valves and mains can be easily located during emergencies, in violation of 30 TEX. ADMIN. CODE § 290.46(n)(2).

6. As evidenced by Findings of Fact No. 6, the Respondent failed to provide a pressure tank capacity of 50 gallons per connection, in violation of 30 TEX. ADMIN. CODE § 290.45(b)(1)(A)(ii) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
7. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of Six Hundred Eighty-Four Dollars (\$684) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Six Hundred Eighty-Four Dollar (\$684) administrative penalty.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Hundred Eighty-Four Dollars (\$684) as set forth in Section II, Paragraph 8 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2016-0179-PWS-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, calibrate the Facility's well meter, in accordance with 30 TEX. ADMIN. CODE § 290.46;
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a;

- c. Within 60 days after the effective date of this Agreed Order:
  - i. Develop and begin maintaining an up-to-date and thorough plant operations manual for operator review and reference, in accordance with 30 TEX. ADMIN. CODE § 290.42; and
  - ii. Provide an up-to-date map of the distribution system that includes the locations of all mains and valves, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.c.i and 2.c.ii;
- e. Within 90 days after the effective date of this Agreed Order, either obtain a sanitary control easement that covers all land within 150 feet of Well No. 1, in accordance with 30 TEX. ADMIN. CODE § 290.41, or obtain an exception to the requirement pursuant to 30 TEX. ADMIN. CODE § 290.39(l). Exception requests shall be submitted to:

Technical Review and Oversight Team  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- f. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.h below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.e;
- g. Within 180 days after the effective date of this Agreed Order, provide a minimum pressure tank capacity of 50 gallons per connection, in accordance with 30 TEX. ADMIN. CODE § 290.45; and
- h. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.g. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and



complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

7/7/16

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Utilities, Inc. I am authorized to agree to the attached Agreed Order on behalf of Aqua Utilities, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Utilities, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

gml  
Signature

Robert Laughman

Name (Printed or typed)  
Authorized Representative of  
Aqua Utilities, Inc.

Date

5/11/16

Title

President

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.